

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**IN RE: NEW ENGLAND)
COMPOUNDING PHARMACY, INC.)
PRODUCTS LIABILITY LITIGATION)**

MDL No. 1:13-md-2419-FDS

This Document Relates to:)

F. Dennis Saylor, IV, presiding

**Kirkwood et al v. Ameridose, LLC et al.,)
1:13-cv-12431-FDS)**

**MOTION TO INTERVENE ON BEHALF OF
THE STATE OF TENNESSEE**

The State of Tennessee, by and through the Tennessee Attorney General, moves to intervene in this case pursuant to Rule 5.1(c) of the Federal Rules of Civil Procedure. The State's intervention would be for the limited purpose of defending the constitutionality of Tenn. Code Ann. § 29-39-102 and § 29-39-104. *See* (Doc. 1, Complaint, ¶ 276-280). The State is entitled to be heard whenever a statute of statewide effect is alleged to be unconstitutional. *See* Tenn. Code Ann. § 29-14-107(b). Before this claim was transferred to this Court, Plaintiffs served the Attorney General with a copy of the Complaint filed in *Kirkwood et al v. Ameridose, LLC et al.*, United States District Court Middle District of Tennessee, No. 3:13-cv-00895.

WHEREFORE, the State of Tennessee respectfully requests that its motion to intervene as a matter of right be granted and that all notices and court filings be served on the undersigned Assistant Attorney General.

In support of this motion, the State of Tennessee relies upon the contemporaneously filed memorandum in support.

Respectfully submitted,

ROBERT E. COOPER, JR.
Attorney General and Reporter

WILLIAM E. YOUNG
Solicitor General

s/ Mary M. Bers
Mary M. Bers, BPR # 013159
Senior Counsel
Office of the Attorney General
P.O. Box 20207
Nashville, Tennessee 37202-0207
(615) 741-1845

s/Joseph Ahillen
Joseph Ahillen, BPR # 028378
Assistant Attorney General
Civil Rights and Claims Division
Office of the Attorney General
P. O. Box 20207
Nashville, Tennessee 37202-0207
(615) 532-2558

CERTIFICATE OF SERVICE

I certify that on this 7th day of October, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. This document was originally filed on October 2, 2013 in case number 1:13-cv-12431-FDS. It is now being filed in the lead case, No. 1:13-md-2419, in compliance with MDL Order No. 1 from February 15, 2013.

s/Joseph Ahillen
JOSEPH AHILLEN